

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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July 21, 2003

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GSBCA 16131-RELO

In the Matter of TERRY R. STANTON

Terry R. Stanton, Vicksburg, MS, Claimant.

Cynthia R. Blevins, Deputy Director, Finance, Finance Center, United States Army Corps of Engineers, Department of the Army, Millington, TN, appearing for Department of the Army.

**PARKER**, Board Judge.

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## Background

When Terry R. Stanton, an employee of the United States Army Corps of Engineers, was transferred in April 2002 from West Middlesex, Pennsylvania, to Vicksburg, Mississippi, the Government shipped 18,660 pounds of Mr. Stanton's household goods. Mr. Stanton was billed, and paid, \$202.24 for moving the 660 pounds of goods in excess of the 18,000 pounds allowed by statute.

Among Mr. Stanton's household goods were a canoe and a small trailer for the canoe. A later audit disclosed that the moving company charged the Government extra for moving these items. The extra charges took the form of weight surcharges: a 1600 pound surcharge for the trailer and a 700 pound surcharge for the canoe. The items did not weigh these amounts -- the surcharges were in addition to the actual weight and were simply expressed in terms of weight, rather than dollars.

The Corps of Engineers now says that Mr. Stanton moved 20,960 pounds of household goods and expects him to pay the excess over the 18,000 pounds allowed by statute.<sup>1</sup> Mr. Stanton says that he should not have to pay the weight surcharges for the canoe and trailer because the charges do not represent the true weight of his household goods.

### Discussion

The federal statute that governs Mr. Stanton's claim provides that when an agency transfers an employee from one permanent duty station to another in the interest of the Government, the Government is responsible for the costs of transporting and storing not more than 18,000 pounds net weight of the employee's household goods. 5 U.S.C. § 5724(a)(2) (2000). This statutory limitation is implemented in the Federal Travel Regulation, which applies to most civilian employees of the Federal Government. 41 CFR 302-7.2 (2002). Because the Government cannot pay for moving any more than 18,000 pounds of household goods, the employee whose goods are moved is responsible for reimbursing the Government for the costs attributable to any weight in excess of 18,000 pounds. Richard D. Grulich, GSBCA 15800-RELO, 02-2 BCA ¶ 31,891.

Although this appears to be a case of first impression, it seems obvious that the statute and implementing regulations entitling a transferred employee to have transported up to 18,000 pounds of household goods refer to the actual net weight of the goods, rather than an artificially calculated weight reflecting surcharges that have nothing to do with actual weight. If the rule were otherwise, employees moving the same amount of furniture would be required to pay varying amounts depending solely on the billing methods of their carriers. Mr. Stanton's household goods weighed 18,660 pounds, not 20,960. He is thus responsible for reimbursing the costs attributable to 660 pounds of excess weight but not for the 2300 pound surcharge which, although expressed in terms of weight, was in effect a monetary charge that had no relationship to the actual weight of Mr. Stanton's household goods.

Although Mr. Stanton is not responsible for the additional weight surcharges, it appears that Mr. Stanton may have been billed incorrectly initially. The record shows that Mr. Stanton was billed for, and paid, \$202.24 in additional charges related to transporting 660 pounds of excess weight. Although the record does not disclose how this amount was calculated, using the proper methodology -- taking the ratio of the excess weight (660 pounds) to the total actual weight of the shipment (18,660 pounds) and then applying that ratio (.03537) to the total charges, including surcharges (\$15,394.71) -- Mr. Stanton should have been billed for \$544.51. See Mark E. Schneider, GSBCA 14478-RELO, 99-1 BCA ¶ 30,155 (1998) (describing the methodology). The Corps should adjust the bill accordingly.

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ROBERT W. PARKER  
Board Judge

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<sup>1</sup> The Corps of Engineers has never maintained that the canoe and the trailer are not household goods.

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